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10 Workers International Union

11 UNITED STATES OF AMERICA
12 NATIONAL LABOR RELATIONS BOARD
13 REGION 31

14 UNITED FOOD AND COMMERCIAL
15 WORKERS INTERNATIONAL UNION,

16 Charging Party,

17 And

18 FRESH & EASY NEIGHBORHOOD
19 MARKET.

20 Respondent.

Case No. 31-CA-077074; 31-CA-080734

**CHARGING PARTY'S MOTION FOR
RECONSIDERATION**

21 Charging Party hereby requests the Board to reconsider its Decision in one regard.

22 In footnote 4, the Board rejects a broad order.

23 In our Exceptions, we point out that there were numerous prior cases in which this
24 Employer had been found to have violated the Act.

25 Eleven days after issuing the Decision and Order in this case, the Board issued another
26 decision involving the same Employer. See *Fresh & Easy Neighborhood Market, Inc.*, 361
27 NLRB No. 12.

28 In this new case, the Board found that the employer had violated the Act with respect to
the individual involved in that case and overruled *Holling Press, Inc.*, 343 NLRB 301 (2004).

1 We recognize that the Board dismissed the Section 8 (a)(1) allegation as to that
2 discriminatee. That is not the basis of the Motion.

3 The Board however found that this Employer had violated Section 8(a)(1) maintaining a
4 separate rule in its employee handbook. The Employer has been required to post a nationwide
5 notice. This is just another incident of continual violations by this Employer.

6 The Motion for reconsideration should be granted so that the Board should direct that the
7 Employer post one consistent notice including both violations. The posting can be nationwide, on
8 the internet and for more than 60 days. The notice should be posted for the length of time
9 between when the violations began and when the notices are actually posted. The Order should be
10 a broad Order in light of this additional violation.

11 For these reasons, the Motion for Reconsideration should be granted.

12
13 Dated: August 28, 2014

WEINBERG, ROGER & ROSENFELD
A Professional Corporation

14
15 By: /S/ DAVID A. ROSENFELD
16 DAVID A. ROSENFELD

Attorneys for Charging Party, United Food and
Commercial Workers International Union

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1 **PROOF OF SERVICE**

2 I am a citizen of the United States and resident of the State of California. I am employed
3 in the County of Alameda, State of California, in the office of a member of the bar of this Court,
4 at whose direction the service was made. I am over the age of eighteen years and not a party to
5 the within action.

6 On August 28, 2014, I served the following documents in the manner described below:

7 **CHARGING PARTY'S MOTION FOR RECONSIDERATION**

8 On the following part(ies) in this action:

- 9 ☒ (BY ELECTRONIC SERVICE) By electronically mailing a true and correct copy
10 through Weinberg, Roger & Rosenfeld's electronic mail system from
kshaw@unioncounsel.net to the email addresses set forth below.
- 11 ☒ (BY E-Gov SYSTEM) I electronically served the above-described document on the
12 following parties by electronically filing the foregoing with the NLRB on August 28,
2014.

13 VIA E-GOV, E-FILING

14 Executive Secretary
National Labor Relations Board
1099 14th Street N.W.
15 WASHINGTON, D.C. 20570

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22 Counsel for Fresh & Easy Neighborhood
Market, Inc.

23 I declare under penalty of perjury under the laws of the United States of America that the
24 foregoing is true and correct. Executed on August 28, 2014, at Alameda, California.

25
26 /s/ Katrina Shaw

27 Katrina Shaw
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